

RUTH ANN WARNER as Guardian of)
JONATHAN JAMES BREWSTER WARNER,)
an incapacitated adult,)

V.

Defendant.

CASE NO. 6:18CV00064

JURY TRIAL DEMANDED

Plaintiff, RUTH ANN WARNER, as Guardian of JONATHAN JAMES
BREWSTER WARNER (hereinafter “WARNER”), by the undersigned attorney, makes
the following averments:

1. This action arises from the invasion of WARNER's privacy by defendant MICHAEL R. DOUCETTE ("DOUCETTE"), who, while acting under color of state law in his capacity as the elected Commonwealth's Attorney for the City of Lynchburg, Virginia, gave a press conference on June 1, 2016 during which DOUCETTE divulged WARNER's sensitive, private medical history without WARNER's consent and without any justification. As a result of the public release of this information, WARNER was subject to humiliation, ridicule and castigation and suffered damages.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of federal claims asserted in this action pursuant to 28 U.S.C. § 1331.
3. This Court has supplemental jurisdiction over the state claims asserted in this action pursuant to 28 U.S. Code § 1367.
4. Venue is proper in this district under 28 U.S.C. §1391(b), because (i) DOUCETTE is a resident of the Western District of Virginia pursuant to 28 U.S.C. § 1391(c)(2), and (ii) all of the events or omissions giving rise to the claim occurred in the Western District of Virginia pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. WARNER is an incapacitated adult who lives in Amherst County, Virginia. His mother, RUTH ANN WARNER is his legal guardian, having been so appointed by order of the Amherst Circuit Court.
6. DOUCETTE was, on June 1, 2016, the elected Commonwealth's Attorney of the City of Lynchburg, Virginia.

FACTS

7. On January 11, 2016, WARNER was shot by a security guard at Lynchburg General Hospital in the City of Lynchburg.
8. DOUCETTE, acting under color of state law, conducted an investigation of the shooting and worked closely with the Lynchburg Police Department in doing so.

9. DOUCETTE obtained the content of WARNER's health records during the course of the investigation.
10. WARNER never authorized DOUCETTE to release or redisclose the content of WARNER's health records.
11. On June 1, 2016, DOUCETTE conducted a press conference and issued a press release to discuss the results of his investigation and to explain his decision not to charge anyone criminally.
12. During the course of the press conference and in the text of the press release, DOUCETTE revealed and redisclosed sensitive content from WARNER's health records, discussing with specificity information taken from WARNER's medical records, including WARNER'S psychiatric conditions, history, treatment and medication.
13. After the press conference, WARNER was subjected to humiliation and castigation as a result of the release of the content of his health records by DOUCETTE.

COUNT ONE – SECTION 1983 CLAIM – INVASION OF PRIVACY

14. WARNER had a reasonable expectation of privacy in his health records under the United States Constitution and its Fourth and Fourteenth Amendments.
15. DOUCETTE had no right or legal justification to publicly release WARNER's medical information when DOUCETTE had determined that no prosecution was warranted.
16. DOUCETTE violated WARNER's constitutional rights under the Fourth and Fourteenth Amendments when he publicly released information taken from WARNER's medical records without WARNER's consent.

17. WARNER is entitled to recover damages and reasonable attorney fees incurred in bringing this action and such additional and other relief as the Court may deem appropriate.

COUNT TWO - INVASION OF PRIVACY – STATE CLAIM

18. Code of Virginia § 32.1-127.1:03 creates a right to privacy in the content of health records.

19. The statute defines “health record” to mean “any written, printed or electronically recorded material maintained by a health care entity in the course of providing health services to an individual concerning the individual and the services provided. "Health record" also includes the substance of any communication made by an individual to a health care entity in confidence during or in connection with the provision of health services or information otherwise acquired by the health care entity about an individual in confidence and in connection with the provision of health services to the individual.

20. Nothing in the statute or other law authorizes a Commonwealth’s Attorney to publish the content of any person’s health records in a press conference or in a press release.

21. DOUCETTE violated WARNER’s rights under Code § 32.1-127.1:03 when he published and redisclosed the content of WARNER’s health records without WARNER’s consent and without any legal justification.

22. DOUCETTE acted willfully or with gross negligence in redisclosing the content of WARNER’s health records on June 1, 2016.

23. WARNER is entitled to recover damages, the reasonable attorney fees incurred in

bringing this action and such additional and other relief as the Court may deem appropriate.

PRAYER FOR RELIEF

24. WHEREFORE, plaintiff, RUTH ANN WARNER, as Guardian for JONATHAN JAMES BREWSTER WARNER, prays that this Court enter judgment against the defendant on each of the above causes of action, and further prays for:

- A) An award of WARNER's actual damages as appropriate to the proof at trial,
- B) Punitive damages as appropriate to the proof at trial,
- C) Recovery of the reasonable attorney fees and costs incurred in bringing this action.
- D) Such additional and other relief as the Court deems appropriate.

A JURY TRIAL IS DEMANDED

Respectfully submitted,

**RUTH ANN WARNER as Guardian of JONATHAN JAMES BREWSTER WARNER
By Counsel**

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